

USDOL/OALJ Reporter

*Jackson v. Science Applications International Corp. Division 012, Savannah River, 95-*

ERA-24 (Sec'y Jan. 18, 1996)

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DATE: January 18, 1996  
CASE NO. 95-ERA-24

IN THE MATTER OF

DONALD J. JACKSON,

COMPLAINANT,

v.

SCIENCE APPLICATIONS INTERNATIONAL  
CORPORATION DIVISION 012, SAVANNAH RIVER,

RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

FINAL ORDER APPROVING SETTLEMENT  
AND DISMISSING COMPLAINT

This case arises under the employee protection provision of the Energy Reorganization Act (ERA), 42 U.S.C. § 5851 (1988). The parties submitted a Final Settlement Agreement and Release of All Claims and Potential Claims seeking approval of the settlement and dismissal of the complaint. The Administrative Law Judge issued a Recommended Order of Dismissal on November 28, 1995.

The request for approval is based on an agreement entered into by the parties; therefore, I must review it to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. 24 C.F.R. § 24.6. *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

The agreement appears to encompass the settlement of matters arising under various laws, beyond the ERA. See Paragraphs 3, 4(c), (d), (e), (I) and 10. For the reasons set forth in *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case No. 86-CAA-1, Sec. Order, Nov. 2, 1987, slip op. at 2, I have limited my review of the agreement to determining whether its terms are a fair, adequate and reasonable settlement of the Complainant's allegations the Respondent violated the ERA.

Paragraph 5 contains language which provides that the Complainant shall keep the terms of the Settlement Agreement confidential, except as may be required by order of court, subpoena, or law. I construe such language as allowing Complainant, either voluntarily or pursuant to an order or subpoena, to communicate with, or provide information to State and Federal government agencies about suspected violations of law involving the Respondent. See *Corder v. Bechtel Energy Corp.*, Sec. Order, Feb. 9, 1994, slip op. at 6-8 (finding void as contrary to public policy a settlement agreement provision prohibiting the complainant from communicating with federal or state agencies concerning possible violations of law).

The parties' submissions, including the agreement become part of the record of the case and are subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1988). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act. See *Debose v. Carolina Power and Light Co.*, Case No. 92-ERA-14, Order Disapproving Settlement and Remanding Case, Feb. 7, 1994, slip op. at 2-3 and cases there cited.

Paragraph 14 provides that the agreement will be governed by the laws of South Carolina. I construe this provision as excepting the authority of the Secretary of Labor and any Federal court which shall be governed in all respects by the laws and regulations of the United States. See *Phillips v. Citizens Ass'n for Sound Energy*, Case No. 91-ERA-25, Final Order of Dismissal, Nov. 4, 1991, slip op. at 2.

I find that the agreement, as here construed, is a fair, adequate and reasonable settlement of the complaints. Accordingly, I APPROVE the agreement and DISMISS THE COMPLAINT WITH PREJUDICE. Paragraph 4(c).

SO ORDERED.

ROBERT B. REICH  
Secretary of Labor

Washington, D.C.